ation of Colonial aspirations and their puerile provision for meeting them," he deals in the earlier part of the chapter.

Finally, he examines and rejects the proposal for a referendum, partly because of the weaknesses which he regards as inherent in the system, but principally on account of the fundamental changes in the entire constitution that would be made necessary by its adoption.

The work exhibits the marks of exhaustive and discriminating scholarship, and the candid, lively style in which it is written makes it thoroughly readable. Apart from its intrinsic value, it possesses especial interest as the apparently unbiased judgment of a competent English scholar upon a vastly important problem of British politics.

J. WALLACE BRYAN.

The Nature and Sources of the Law. By JOHN CHIPMAN GRAY. (New York: Columbia University Press, 1909. Pp. xii, 332.)

This volume comprises a series of lectures delivered by the author at Columbia University in 1908. It is not intended as a comprehensive treatise on jurisprudence since some of the difficult and important conceptions of that science, such as possession and ownership, for example, have been omitted. Its scope is limited to a treatment of the basic theories of the science as applied to the common law, with occasional comparisons to the civil law as exemplified in the law of Rome, of Germany, of France and of Scotland.

The work is divided into two parts, the first dealing with the nature and the second with the sources of the law. Legal rights and duties, persons, the state, the law, courts, the law of nations and jurisprudence are the topics treated in part one. In dealing with the state a real service is rendered by disposing of Austin's theory of sovereignty as irrelevant to the study of jurisprudence. In a political society, the author argues, there is the machinery of government, which, generally has certain legal limitations upon its actions and which, therefore, is not absolutely supreme. The real supreme rulers of a society are those who by one means or another actually dominate over the wills of their fellows. But who these rulers are is a complicated question of fact, very difficult, if at all possible to determine. The ideal entity of the state is postulated to create something to which this machinery of government may be attached. But to impose another entity, that

of sovereignty, undiscoverable and intangible as it is, not only gains nothing, but "to introduce it is to place at the threshold of jurisprudence a very difficult, a purely academic and an irrelevant question." "The organs of government can be as directly referred to the state as they can be to the sovereign" (p. 77). The importance of the distinction between the law and the sources of the law is ably emphasized, confusion on this point having been one of the most fruitful sources of error among writers. The law is declared to be composed of the rules which the judicial organs "lay down for the determination of legal rights and duties" (p. 82).

The second part is devoted to a consideration of statutes, precedents, opinion of experts, customs and morality and equity. Consistently with his definition of law, the writer declares that statutes are not a part of the law, but only a source of law, since they require judicial construction before legal rights and duties can be determined. Perhaps the most noteworthy portion of the treatise is that which deals with the much mooted question of judicial precedents, as to whether they create law or merely declare it. A splendid exposition of the conflicting theories of Blackstone and Professor Hammond and Austin is here set forth and critically examined. The old analogy between the discovery of natural laws by scientists and the discovery of the laws of the state by judges is vigorously attacked on the ground that the first laws are eternal, existing independently of the will of man, while the laws of the state exist only by means of the will of man. The author's position is clear that the courts do create law, and this position is so ably fortified by argument and fact, that his conclusions seem irresistible.

The method of treatment is scientific. The writer continually insists that theories must conform to fact, and that jurisprudence is not a formal science. His chief concern is what the courts actually decide, not what they should decide nor what terminology they adopt. The work is conspicuously free from useless wrangles over the meaning of terms, and in discussing the theories of other writers, the selections have been unusually happy, and his statement of them fair, clear and concise. On the whole, the book is a lucid, scientific discussion of some of the basic conceptions of the common law, and affords to the reader an excellent introduction to the study of jurisprudence, clearing the way of some of the vexing and useless controversies that have been injected into the science by the unscientific and academic discussions of the past.

The volume contains an index, a table of the authors quoted from and an appendix containing brief discussions of several matters of general interest to the student of jurisprudence.

ARNOLD B. HALL.

General Theory of Law. By N. M. KARKUNOV, translated by W. G. HASTINGS. (Boston: Boston Book Company, 1909. Pp. xiv, 524.)

This volume is a brief but comprehensive treatment of the theory of the law, with a rather elaborate account of the main philosophical theories that have influenced or affected its development. The evolution of legal thought and its relation to the teachings of general, moral, political and social philosophy is traced down to the best of modern thought, special attention being given to continental writers.

The work is divided into four books, the first dealing with the conceptions of the law. Here the various conceptions and definitions are critically analyzed and discussed. *A priori* philosophies of the law are declared to be unnecessary. Law is defined as the delimitation of human interests, interests being used in the sense of legal rights. His evolutionary attitude towards the question is illustrated by his criticism of the conception of the historical school in which he declares that they "defined it as an organic development of a type determined beforehand, and not as a progressive and creative development" (p. 121). His attitude towards the nature of law is clearly scientific.

In the second book, which deals with the objective and subjective sides of the law, legal rules and their nature and the conceptions of legal right are analyzed and their relation to the field of jurisprudence discussed. The social conditions of legal development are treated in book three. The fundamental theories of society, the state and government are critically surveyed, special emphasis being given to the modern social viewpoint. The last book is devoted to positive law, dealing with its sources and administration, and containing an excellent and interesting chapter upon the sources of Russian law.

The whole volume clearly evidences the writer's wide and accurate knowledge of the history of philosophic thought, and his keen powers of analysis with which he has traced the influence of various systems of philosophy, both deductive and inductive, upon the development of legal theory. The author shows no small degree of originality in